

**FLATHEAD COUNTY PLANNING BOARD  
MINUTES OF THE MEETING  
MARCH 26, 2008**

**CALL TO  
ORDER**

A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. Board members present were Rita Hall, Randy Toavs, Marc Pitman, Mike Mower, Gene Dziza, Jim Heim, and Frank DeKort. Gordon Cross was absent. Andrew Hagemeyer and Jeff Harris represented the Flathead County Planning & Zoning Office.

There were approximately 100 people in the audience.

**PUBLIC REVIEW**

Randy Toavs reviewed the public hearing process.

**APPROVAL OF  
MINUTES**

Dziza made a motion seconded by DeKort to approve the February 20, 2008 meeting minutes.

**PUBLIC  
COMMENT  
(not related to  
agenda items)**

Charles Lapp, 3230 Columbia Falls Stage Road, said he missed last weeks meeting and wanted to discuss the text amendment. He encouraged the Board to bring the text amendment back as an item as soon as possible. He would like to see a recommendation sent to the Commissioners soon.

**CONSENT  
AGENDA**

Dziza made a motion seconded by DeKort to adopt the consent agenda.

**PRELIMINARY  
PLAT/  
NORTHSHORE  
RANCH  
(FPP 07-32)**

A request by Kleinhans Farms Estates, LLC for Preliminary Plat approval of North Shore Ranch, a 290 lot single-family residential subdivision with equestrian facilities, parks and open space on 367.470 acres. Lots in the subdivision are proposed to have public water and sewer systems. The property is located off MT State Highway 82.

**STAFF REPORT**

BJ Grieve reviewed Staff Report FPP 07-32 for the Board.

**BOARD  
QUESTIONS**

Pitman asked about the last sentence of finding of fact 39.

Grieve explained that it was correct because it was in the 500 year floodplain.

DeKort said the application came before the Board in 2006 and was recommended for denial. He asked if there were any significant changes.

Grieve said there have been a significant amount of information submitted by the applicants to address some of the concerns that were the original basis of denial. He went through the original Staff Report and explained what further information he had received.

DeKort asked if the number of lots and layout has changed.

Grieve said the number of lots has been reduced.

*Heim disclosed himself as an employee of the Lakeside Water and Sewer District. He recused himself.*

**APPLICANT  
PRESENTATION**

Eric Mulcahy, of Sands Surveying, said North Shore Ranch has been in the planning stage for the past two years. The applicants have worked extremely hard to present the project as a first class project and address the impacts. The applicants have worked hard to address all of the questions raised at the first Planning Board meeting. The development has 49 percent of the site as open space with a large conservation area for a buffer. It utilizes public waste water facilities and uses a public water system.

Sean Averill gave a PowerPoint presentation of North Shore Ranch.

**AGENCY  
COMMENTS**

Lynn Verlanic, US Fish and Wildlife, said her comments are from the office in Great Falls. See attached letter.

Gael Bissell, Montana Fish Wildlife and Parks, see attached letter.

**PUBLIC  
COMMENT**

Susanna Casey, 265 Breezy Point, wanted to rebut the visuals provided by the applicant. She turned in a letter to the Planning Board along with a set of visuals. When you look at the visuals you see trees and green lawn, but when you look closely you can see the houses. If you look at a different map it looks a lot different. She said there will not be that much open space. She showed the Planning Board what her map looked like representing North Shore Ranch. Her map represented the density of what the lots would actually look like. The roads and cul-de-sacs shouldn't be added for open space.

McGregor Rhodes, 405 Demersville Road, avid hunter, uses the waterfowl production area a lot. He said to be able to experience the waterfowl production area during hunting season is unbelievable. He is totally opposed to the development and said

values and traditions will be gone if it is allowed to occur. The dogs and cats will be a problem for the waterfowl. The waterfowl is irreplaceable for the Valley. He encouraged the Board to say no to the proposal.

Mayre Flowers, Citizens for a Better Flathead, see attached letter.

Chris Cerquone, Geometrics Consultants, 1001 S. Higgins, see attached letter.

Katherine Maxwell, see attached memorandum.

Henry Oldenburg, 254 Oldenburg Road, is a 5<sup>th</sup> generation Montanan. He showed Grieve the Blasdale lawsuit. He said if you review the trial record and review the decision of the court you will find that Montana Power Company offered \$10,000 in damages for his property. The supreme court granted him \$40,000 in damages. The rise of Flathead Lake every year affects water on his property. The lawsuit should speak for itself. You can't ignore the legal facts without reviewing the trial record and making an adequate judgment. He said approval of the subdivision equals the destruction of waterfowl refuge; it will overwhelm the hunting opportunities on the larger eastern half. The hunting pressure on the East half is excessive. There are only a few places left for hunting. He said highway 82 is a death trap and until it is a 4-lane highway you shouldn't be putting more people on the road. The North Shore Ranch could be positive if it was 10 or 12 expansive gate-type properties. They call Flathead County the last best place. If this is the last best place, he trusts to God, the Planning Board will keep it that way.

Rose Catrone, lives 2 miles North of the subdivision. The PowerPoint was a beautiful presentation. She discussed the amount of traffic dumping onto highway 82. She said 500 more cars dumped onto Highway 82 would not be safe. The equestrian center hold 40 horses but she is concerned about how many people will bring their horses into the subdivision to ride on the trails. She asked if people would put in their own trees or if the developer does it. She said it won't be affordable housing. She discussed the surrounding subdivisions. The larger lots aren't selling. She can't believe that in this Valley there are that many people dying to come move into North Shore Ranch. Where are the people? Where are the jobs?

Susan Smith, 900 West Reserve Drive, native American, born and raised in Kalispell. She lived on a farming ranch when she was young. She drives Highway 82 frequently and has mixed feelings about the discussion this evening. She took an oath to protect private property rights and has been a real estate broker for 14 years and has seen a lot of subdivisions. Mackinaw Estates keeps coming up as an example of what not to do in a subdivision. She cares a lot about the environment. She would love to see things stay the same, but that is not reality. She supports North Shore Ranch.

Lanely Henzel, 215 5<sup>th</sup> Ave East, is on the Board of Directors for Flathead Lakers whose main goal is water quality. He said wet weather goes directly into the lake and the water has to go somewhere. The County doesn't have regulations on the construction of such areas of shallow aquifers. There has been a lot of discussion regarding Lakeside and Somers sewer conditions. He hoped the Board would consider water quality and human life.

Marilyn Wood, Flathead Land Trust, has been involved in a number of big projects in the area. She wanted to discuss the alternative conservation district. For over twenty years the land trust has worked with land owners. A lot of projects worked on involved Flathead River and Flathead Lake. They have been able to piece together a lot of important habitats along the lakes and rivers. A conservation vision for the North Shore would showcase how to protect the amenities. She said the decision tonight will determine what the future of North Shore looks like.

Sharon Demeester, 415 Chestnut Drive, wanted people to raise the money for a conservation easement. She said there are not many accesses to put your boat in the lake. People need access to open space and water. She discussed the effects cats and dogs would have on the wildlife in the area. She said cats really take a toll on birds.

Jim Clark, said according to the presentation, half the property is going to be set aside for open areas, trails, etc. He couldn't get any kind of feeling for the amount of lots from the PowerPoint presentation. The state says there will be 2,900 more vehicle trips per day from the development. The County doesn't have the means for enforcing some of the conditions. He said the County needs to be prepared for earthquakes. He recommended a mid-course correction.

Kitty Rich, of Somers, said North Shore is a delicate ecosystem and needs to be dealt with carefully. She said there are 161 miles of lakeshore and this proposal doesn't belong. She hoped the proposal would be denied.

Jake Madson, 829 5<sup>th</sup> Ave West, said he is not an expert in any way but has grown up in the Valley. Change is inevitable and needs to be embraced. He supports the North Shore Ranch project. He thought the developers had done a tremendous job planning the property. He was very excited to learn they are donating \$300,000+ to the Somers school district. The applicant does care about the history of the valley.

Paul Henion, 10 Prosperity Lane, supports the North Shore Ranch. He knows there is a lot of reasoning behind what people say, but there are two sides to everything. In his opinion, all cats are feral. He would be fine seeing cats outlawed everywhere. Anybody can bring a dog to the waterfowl protection areas and hunt so there are going to be dogs all over. There should be CC&R's to prevent wild dogs running around. He said the Valley has a terrible lakeshore erosion problem. He has been involved with construction and real estate appraisal and the growth of the valley is inevitable. Eagle Bend is built directly on the water fowl area. He said the design of North Shore is very tasteful and should be a model for which all new subdivisions are approved. He said it would be a good family community.

Virginia Gazewood, 105 Looking East Drive, see the whole Valley from her house. See attached letter from Gazewood.

Bruce Young, of Lakeside, said he went to school in Somers. He hunts in the waterfowl protection area and appreciates being able to do so. He has big concerns about the project. He said the proposal is on an extremely sensitive piece of ground and is by no means a model for a subdivision. He said it is far too dense. If the County wants to maintain the integrity of the birdlife, wildlife, and Flathead Lake the density has to be vastly reduced. He hoped the Board would listen to the taxpayers who live here.

Jeannie Sattler, 340 Shady River Lane, has seen her share of development. She is in favor of North Shore Ranch. She has seen the plans and has spent additional time researching other developments. The character behind the development is good. Nobody wants to see more development, but then again no one would be here without development. Most of the homes we live in have disturbed wildlife. The valley is growing and needs

development. She truly believes the developers care and have spent countless hours trying to save the area.

Robin Steinkraus, Polson, see attached letter.

Blane Platt, 1476 Barley Lane, supports the North Shore. Kind of project he wants to raise his family in. perfect opportunity for people to raise their families. The developers have gone above and beyond their call of duty for a developer. It would be a model community.

Will (*inaudible*), said no matter what there is going to be some development on the property and a project like this at least offers an opportunity to keep some open space and land.

Peggy Hedin, 206 Westridge Drive, said there isn't a worse place to put a development of this size. It will have good sale opportunities but that doesn't mitigate the loss of habitat in North Shore. She hoped the Board would do the right thing and deny the proposal. If it wasn't for the lure of very big money, they wouldn't be doing this.

Jim Torgerson, of Bigfork, said everybody has talked about how long they have lived here. He has only lived here for three years. He said people are going to move and migrate because everybody seeks a better life for themselves and their family. None of us would be here if we weren't living in homes that damaged wildlife. Unless someone is living in a grass hut no one should be opposed to the development. He said the project is environmentally sensitive.

Charles Lapp, 3230 Columbia Falls Stage Road, said North Shore is a very well planned project. The more plan or work that goes into a project the more the public shows up and speaks against it. The project wouldn't get looked at differently if it was on the other side of the Highway. He said the Valley shouldn't be afraid of this type of project. He said with the conservation easement and money to schools it is overall a good project. He was in favor of the project.

Brian Folly, said it looks like a good project for the edge of Kalispell, but not for the edge of Flathead Lake and in a waterfowl protection area. The market is not very strong for the area.

Mitchell Mayburry, 58 Ranchettes Lane, said Highway 82 is a very unsafe place. She drives her son to Kalispell every day for school and is worried about adding traffic to the road. Her family is avid hunters and they enjoy the outdoors. She hates to see the hunting change drastically.

Bob Hedin, 206 Westridge Drive, doesn't envy the job the Planning Board has. If you get past all the technical information you can see the density is too high for the area. He doesn't remember hearing anything from the Staff about the traffic impact study and that's a big deal. Somers has had some interesting duels with developers over the past couple of years and the problem is the developer's greed.

Janel Logan, Somers, overlooks the North end of the lake. She has the privilege of looking at all of the wildlife on a daily basis. The North end of the lake represents Montana and the Big Sky. She said the land is very sensitive.

Karen Reese, said the agencies and Citizens for a Better Flathead did a great job. She said the land is our economic engine. The clean water is so important and the area is fragile. The Growth Policy should also be guiding the decision. The most important things are clean water and access to water.

Denis Haton, said there can be two outcomes from this. He said they can say who was smart enough to do something with this party of the Valley or say why did we ever let this happen?

Cissy Booth, 105 Pikes Peak, is opposed to the development. She said access to the lake is very important.

## **APPLICANT REBUTTAL**

Keith Simmon, partner of North Shore Ranch, thanked the Planning Board for their efforts that have been put forth on the project. He appreciated BJ Grieve for putting together such a thorough Staff Report. He thanked the citizens for their participation. He knows the piece of property is very emotional and said they were not here for a popularity contest. He said the project has common sense, responsibility and accountability. He approached the Flathead Land Trust well over two years ago. He understands the wildlife production area and knows about the desire to hunt. He said the first application was rescinded to go back and address the 13 findings-of-fact from the first application. He took umbrage to the public taking a personal attack on him. The Flathead Land Trust has had very many sit-down meetings and he has had an open offer with them that at any time they will entertain an offer. He said some information has been brought up that does not have credence. The development has to sustain itself and be as compatible as possible with the environment. He knows the subdivision is going to impact the area. He brought in a great biologist to help with the area and started the voluntary restoration of the wetland. He said the project will be phased out over 10-12 years.

Joe Elliott, biologist from Missoula, said he would have appreciated getting the comments from the public earlier. He showed an image from the previous slideshow presentation and said there seems to be some confusion about what the project is. He said when a tier-one species is identified they are the most important. He said a large part of the project area is crop land. The list of species identified isn't associated with cropland, they are associated with wetland and that's the part not getting developed. He said they are going to farm a five-acre spot of land for the water fowl. The habitat is largely cattail and canary grass. They will create more nesting habitat for water fowl than exists now. The proposed subdivision doesn't encroach on the waterfowl protection area. There will be a buffer that will improve hunting. He said waterfowl adapt to human habitation and activities. He said nobody likes to see more people hunting on a limited area but the whole region is increasing in population and is going to get more and more crowded. Dogs and cats are a problem; there are already developments that enable cats and dogs to roam. Any development is going to cause problems with cats and dogs. There are other roads and developments that abut the waterfowl protection area. He said most hunters can look where they are shooting and shotguns would be acceptable. The eagle's nest blew down so they don't know where the pair of eagles may nest again. He said trying to plan where a

hypothetical eagles nest might be is not very reasonable. The eagles are accustomed to activity on Flathead Lake. The proposal won't affect the eagle's nest.

Keith Simmon said he worked with Tom Litchfield who said they met all the Fish, Wildlife and Parks requirements. He said pets were one of the issues that needed to be addressed. The CC&R's are very serious about pet control. He said they will more than likely have a security guard that roams around that will be enforcing the animal regulations and they will have an onsite manager. He said they put together an agreement in the CC&R's that if the HOA wants to change the wildlife or vegetation plan at all, Fish, Wildlife, and Parks has to be notified and have a say in the matter. He discussed the conservation easement. The Flathead Land Trust declined to take the gift of the conservation easement. He said some of the others keep talking about putting together an offer for the land and if a deal is worked out that would be great because it would be a win for everybody. The floodplain is a serious issue they discussed with the Flathead County Planning office. The enforcement of floodplain issues were hard to deal with so they decided to pull all of the lots out of the floodplain.

Erich Mulcahy, of Sands Surveying, said the easement they have is the typical easement that was placed by Montana Power that allows them to flood the property. The Montana Power easement to flood is above the 100-year floodplain. If they were to flood the proposal the property would still be ok. North Shore Ranch is not a lakeshore property. Montana Power would have to erode all of the waterfowl protection area before they could erode North Shore.

Keith Simmon said in regards to the density issue there is no legal justification for denying the subdivision because of density.

Bill Van Kanaghan said there's been a lot of discussion about density. It is dangerous to listen to the comments about density when analyzing whether or not the subdivision should be denied. Density is not an individual criterion for review in terms of analyzing whether or not a subdivision is in the public's interest. He asked the Board to carefully evaluate what is said and to make a conscious effort to separate general statements and speculation. He encouraged the Board to look at the Staff Report.

Keith Simon said hydrology is a big issue and he is very familiar with it. He was in agreement of putting on the final plat that you must have the geology and structural engineer design your house and be required to go through an architectural review.

Mark Spratt, RLK Hydro, discussed the water system that will be used at North Shore.

Randy Olverton, RLK Hydro, showed a three-dimensional layered version of the water model. He said most of the activity in groundwater movement occurs in the green layer. He showed a cross section of the map. He showed a water table surface map that was sped up through a three-year period. Is a quasi-calibrated model. He explained how the system would work.

Keith Simmon discussed the manure on the property and how it would be disposed of.

Dan Maunzer, RLK Hydro, was tasked with looking at nutrient and contaminants in the soil. He contacted the previous land owners and asked him what his fertilizing strategy was for his land. The open space would be fertilized with manure after it was composted. He said taking manure from horses is a well recognized way of fertilizing and there will be no increase in nitrate loading.

Tom Callin, Carver Engineering, discussed a few questions regarding storm water, water supply, and sewage treatment. The applicant is proposing their own water system with wells, reservoirs, booster pumps, etc., and they have already received an agreement with the Lakeside Water and Sewer Department. He said there will be a low pressure grinder pump. The fears of a pipe breaking are not that concerning to us because there is very little pressure to begin with. They will get approval from the DEQ before final plat is filed.

Joshua Smith, CNC Engineering, said he drilled 9 holes on the property to look at the ground water. He discussed the drilling test sites.

Keith Simon said if anybody wants further detail they are more than welcome to talk to them at any time.

Jim Heim, Lakeside Water and Sewer, said he is not part of the project and is not speaking in favor or against the proposal but wanted to answer some basic questions. He has an agreement

with the subdivision to treat wastewater services and wanted to clear up some questions about the capacity. He said wastewater has to be stored for about two-thirds of the year. The treatment site has been looked at and is not near capacity currently. They have significant growth capabilities with the land they currently own.

Keith Simon said the subdivision will not be affordable housing. It would require too high of a density to have affordable housing. He discussed traffic and the traffic impact study. He said they did an extensive traffic impact study. The trails and parks are open to public but North Shore reserves the right to close them if they are abused. He said Saddlehorn is the only other project like theirs. He said the project exceeds standards.

**Lawyer** discussed the Growth Policy. He said under current Montana law, the Growth Policy doesn't have authority to regulate. He addressed the discussion about the public effort to design an alternative to the subdivision. He said there has been a scope of work done by the public and agency comments. The developer has a right under state law to apply for a subdivision. He said the desire by the public or agencies to seek alternatives to subdivisions is not a criterion for review. The applicants voluntarily waived their review time so they could get more information, but they can't be forced to wait any longer for people to come up with a better idea.

Sean Averill thanked the Board for their time and wished the public would have commented at more of their meetings.

**MOTION TO  
TABLE UNTIL  
APRIL 2, 2008**

Dziza made a motion seconded by DeKort to close the public hearing and continue the meeting on April 2, 2008.

**ROLL CALL TO  
TABLE**

On a roll call vote the motion passed unanimously.

**ADJOURNMENT**

The meeting was adjourned at approximately 11:15 p.m. on a motion by DeKort seconded by Dziza. The next meeting will be held at 6:00 p.m. on April 2, 2008.

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Gordon Cross, President

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Kayla Kile, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 5/14/08